

# Illinois Department of Transportation

2300 South Dirksen Parkway / Springfield, Illinois / 62764

## BDE PROCEDURE MEMORANDUM

**NUMBER: 33-03**

**SUBJECT: Wetlands Compliance Procedures**

**DATE: July 11, 2003**

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### BACKGROUND:

Federal Executive Order 11990 applies special requirements for addressing the impacts of federal projects on wetlands. Wetlands also are subject to regulation under the federal Clean Water Act (33 USC 1251-1376) as a part of the Section 404 permit process and the Section 401 Water Quality Certification requirements (33 CFR Parts 320 through 330). In addition, the Illinois Interagency Wetland Policy Act of 1989 (20 ILCS 830) and the implementing rules for the Act (17 Ill. Adm. Code 1090) address State policy for wetlands which is reflected in this Department's Wetlands Action Plan (attached) for compliance with the Act and rules.

These controls require project planners to avoid and minimize adverse impacts to wetlands as a first course of action and to compensate for any unavoidable adverse wetland impacts, typically by providing replacement wetlands acreage of comparable or better quality and type. These directives also require coordination with regulatory and natural resource agencies to evaluate the impacts of project alternatives and to determine appropriate compensation for any unavoidable adverse wetland impacts. The procedures in this memorandum address the key steps for compliance with the wetlands requirements and the documentation and coordination contacts associated with each step.

### APPLICABILITY:

The procedures in this memorandum apply to the following:

All State highway projects which would:

- (a) involve acquisition of additional right of way or easements (temporary or permanent);
- (b) require a drainage structure runaround or any in-stream work;\*
- (c) potentially affect a recognized natural area/nature preserve or a location where a State-listed or Federal-listed species is known to occur; or,

## **BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 2**

- (d) potentially affect a wetland within existing right-of-way, as identified through National Wetland Inventory (NWI) maps or other wetlands information source which the District Office possesses, and

Borrow, waste, and contractor-use areas.\*

\*(Note: For contractor-furnished borrow, waste, and use areas and for contractor-proposed drainage structure runarounds affecting areas beyond the limits of Phase I environmental surveys conducted for the project, BDE will perform the initial screening for wetlands as described in section 1, below. For any wetlands that will be potentially affected by these contractor-furnished facilities, the contractor will be responsible for obtaining delineations of the wetlands in accordance with the current Federal wetlands delineation manual. The contractor also will be responsible for complying with applicable permitting and compensation requirements for any unavoidable adverse wetland impacts resulting from these contractor-furnished facilities. The procedures in this memorandum are not intended to cover compliance actions for contractor-furnished facilities.)

### **PROCEDURES:**

The following procedures establish the normal process and associated responsibilities for addressing wetland compliance issues.

#### **1. Identification and Description of Wetland Resources**

In response to submittal of an Environmental Survey Request form for a proposed project, BDE will use available information (e.g., National Wetland Inventory maps, aerial photos, soils maps) to determine whether wetlands are, or may be, present in the area the project will potentially affect. If the information clearly indicates that no wetlands are present in or near the project vicinity, BDE will provide the District a sign-off indicating that further compliance with the wetlands requirements will not be necessary unless the scope or location of the project changes such that it would potentially affect locations beyond the area previously reviewed and cleared for wetlands. The target turnaround time for this initial screening phase will be 45 days from the date the Environmental Survey Request form is received. If the information indicates there are, or may be, wetlands in or near the project vicinity, BDE will send the project for survey by the Illinois Natural History Survey (INHS). The target turnaround time for providing wetland delineations through the INHS will be six months to one year from the date the Environmental Survey Request form is received. If the INHS surveys delineate no wetlands in or near the project vicinity, BDE will provide the survey results to the District with a sign-off as described above. If the INHS surveys identify wetlands in or near the project vicinity, BDE will provide the wetland delineations and a wetland survey report to the District with a request for submittal of a Wetland Impact Evaluation (WIE) form when the extent of unavoidable adverse wetland impacts has been determined. Wetland delineation and classification will be in accordance with Section IV of the IDOT Wetlands Action Plan.

## **2. Analysis of Avoidance and Minimization Alternatives**

When wetlands occur in the area a project will affect, the District must consider location and design alternatives to avoid and minimize adverse wetland impacts to the extent practical (including consideration of the "no action" alternative, alternative alignments, and design aspects such as steepening slopes, reducing median and lane widths, and using overland bridges to minimize encroachment into wetlands). This analysis will begin in the planning phase and shall continue as details are further developed in the design phase.

The environmental documentation for the project should include information on any measures taken to avoid and minimize adverse wetland impacts. To ensure that consideration is given to avoiding and minimizing wetland impacts as design work proceeds, the delineated boundaries of wetlands that will or could be affected by the project shall be shown on design plan sheets when the plans are prepared.

## **3. Wetland Impact Evaluation**

The District must complete a WIE form and submit it to BDE for all projects that are surveyed for wetlands and determined to have wetlands within the study area. The WIE form should be submitted after the District has completed the analysis of avoidance and minimization alternatives and has determined the likely extent of unavoidable adverse wetland impacts the project will entail. The information in the WIE form will indicate whether or not the project involves unavoidable adverse wetland impacts and will provide the basis for determining whether it qualifies as a Programmatic Review Action or Standard Review Action. BDE will also use the information in the WIE form for tracking and periodic reporting on wetland impacts and avoidance of wetland impacts for IDOT projects, as required by the Interagency Wetland Policy Act and implementing rules.

If the project will avoid adverse wetland impacts, the WIE and the environmental documentation for the project should reflect the determination that adverse wetland impacts will not occur. BDE will provide a sign-off indicating that further action for compliance with State and Federal wetland requirements will not be necessary, unless the scope or location of the project changes such that wetlands would be adversely affected. If such changes occur, coordination with BDE should be reinitiated to determine the steps necessary for compliance.

For Programmatic Review Actions, BDE will respond to the WIE submittal to confirm the processing category and will confer with the District on options for providing the necessary compensation for unavoidable adverse wetland impacts. The target turnaround time for the BDE response to the WIE on Programmatic Review Actions will be 30 days from the date of receipt of the WIE form from the District. The decision on compensation will be documented and implemented as discussed in the following sections of these procedures.

## **BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 4**

For Standard Review Actions, BDE will coordinate the WIE form, delineations, and wetlands survey report with the Illinois Department of Natural Resources (IDNR), as required by the IDOT Wetlands Action Plan and 17 Ill. Adm. Code 1090.50(a)(1). Upon completion of IDNR's review, BDE will provide the District a copy of IDNR's response and will then confer with the District on options for providing the necessary compensation for unavoidable adverse wetland impacts. The target turnaround time for the response to the WIE on Standard Review Actions will be 120 days from the date of receipt of the WIE form from the District. The decision on compensation will be documented and implemented as discussed in the following sections of these procedures.

### **4. Compensation Plan Development**

After the processing category and amount of anticipated unavoidable adverse wetland impacts have been established for a project, the compensation process can begin. Compensation for unavoidable adverse wetland impacts will be in accordance with the "Policy on Wetlands Impacts and Compensation" in Section V of the IDOT Wetlands Action Plan. (For projects requiring compensation under a Section 404 permit, the Corps of Engineers may, at its discretion, require different ratios on a case-by-case basis. The project will need to comply with the more stringent of the State or Federal compensation requirements.)

If the District and BDE decide to accumulate impacts smaller than 0.3 acre, BDE will document the decision and record the impact amount for tracking against the maximum thresholds for total amounts that can be accumulated as set forth in Section V of the IDOT Wetlands Action Plan. For Standard Review Actions, BDE will inform the IDNR of the decision to accumulate the impacts when the project is coordinated for IDNR review. This decision also should be reflected in the environmental documentation for the project. At such time as the District and BDE determine that accumulated impacts will be debited against a wetland bank or other approved source of wetlands credits, or addressed through inclusion in other project-related wetlands compensation, BDE will provide written notification to IDNR and will update the tracking records for accumulated impacts accordingly.

If the District chooses to pursue providing compensation on-site or from an existing source of wetlands credits for impacts less than 0.3 acre, preparation and processing of an appropriate compensation plan will be necessary, as described below.

For impacts equal to or greater than 0.3 acre, opportunities for on-site compensation must be considered before off-site compensation alternatives are proposed. In addition, options that are off-site but in-basin must be considered before out-of-basin alternatives are proposed. Use of wetland banks or other approved sources of pre-existing wetland credits may be proposed for impacts equal to or greater than 0.3 acre provided this "sequencing" requirement is satisfied.

**A. Compensation through Use of Preexisting Wetland Credits**

If the District proposes to provide compensation from a wetland bank or other approved source of wetlands credits, a compensation plan in accordance with Section VII A. of the IDOT Wetlands Action Plan will be required. The District should take the lead in preparing the compensation plan. BDE will be available to provide assistance, as needed. If the District proposes use of credits for compensation and credits from an approved IDOT wetland bank are not available, the District should take the lead in finding a suitable source of wetlands credits.

The District should submit one copy of the compensation plan to BDE for review. After BDE review of the compensation plan and resolution of any concerns identified, BDE will coordinate the plan in accordance with Section VI of the IDOT Wetlands Action Plan. Processing steps and timeframes for IDNR response will be as described in the IDOT Wetlands Action Plan. The environmental documentation for the project should summarize the information from the compensation plan and should include evidence of IDNR concurrence in the plan for projects classified as Standard Review Actions.

**B. Compensation through Wetlands Restoration, Enhancement, and/or Creation**

If compensation will be provided through wetlands restoration, enhancement, and/or creation, the District should take the lead in locating a suitable compensation site(s), giving appropriate consideration to the effect of the applicable compensation ratios on the amount of compensation needed. In selecting potential sites for wetland restoration, the District also should give careful consideration to the need for using sites that contain a majority of hydric soils [see Section 59-7.07(a) of the *Bureau of Design and Environment Manual*]. The district should take the lead in preparing the compensation plan. BDE will be available to provide assistance, as needed.

After the District has identified one or more potential compensation sites, it should submit information to BDE to request a more detailed assessment of the suitability of the sites for wetland compensation purposes. The information provided to BDE should include a map (7.5' topographic map or plat map) showing the location and boundary of the site(s) and should also indicate the size and current ownership of the site(s). In response to this submittal, BDE will make a preliminary site suitability evaluation, based on soils information. If BDE has concerns about the suitability of the site based on this preliminary evaluation, it will confer with the District before proceeding with any further studies or evaluations of the site. If BDE does not identify any immediate site suitability concerns, or if its concerns are resolved, it will forward the information to the Illinois Natural History Survey (INHS) and the Illinois State Geological Survey (ISGS), as appropriate, and have them conduct

## BDE PROCEDURE MEMORANDUM 33-03

July 11, 2003

Page 6

further investigations of the hydrology, soils, vegetation, and adjacent land use for the proposed site. (As necessary, BDE will contact the District to confirm that landowner permission has been obtained or that written notification has been provided to the landowner prior to having the INHS/ISGS proceed with the on-site investigations.) BDE will forward the results of the site assessments to the District with recommendations on the suitability of the site for wetland restoration or creation.

For sites that the District wishes to continue to pursue, an Environmental Survey Request form should be submitted to BDE to initiate evaluations of the site for cultural resources and for screening against the Natural Heritage database for endangered and threatened species or Illinois Natural Area Inventory sites. The District should also evaluate the site for special waste in accordance with the procedures in Section 27-2 of the *Bureau of Design and Environment Manual*. For sites on agricultural land, the District will need to coordinate with the Natural Resources Conservation Service of the U.S. Department of Agriculture to obtain certification on the status of wetlands on the site (e.g., prior-converted wetlands, farmed wetlands).

After completion of site evaluations and any necessary coordination for cultural resources, endangered species/natural areas, or special wastes, the District and BDE should confer regarding the suitability of the site for use prior to preparing the conceptual compensation plan or initiating property negotiations with the landowner.

### 1. Conceptual Compensation Plan

After conferring with BDE and deciding to proceed with proposing use of a particular site for compensation, a conceptual compensation plan should be prepared in accordance with the outline in Section VII B. of the IDOT Wetlands Action Plan and the following:

- a. In the description of the proposed wetland compensation site(s), include an indication of its current vegetation characteristics.
- b. The conceptual compensation plan should include a description of the monitoring plan that will be used to evaluate the success of the compensation, including the use of measures to correct identified deficiencies or problems. (Monitoring of restored or created wetlands should commence the growing season after completion of the work for the restoration/creation. Compensation projects larger than one acre will be monitored for five years. Compensation projects of one acre or less will be monitored for three years. All monitoring will be conducted by the INHS, through BDE. BDE will accomplish any required coordination of monitoring reports with IDNR and the Corps of Engineers.)

## **BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 7**

- c. The conceptual compensation plan should include a description of the operation, management, and maintenance plan for the site, including procedures to restrict further adverse impacts to the site (such as the use of buffer areas, restricting highway project or other incompatible construction within the wetland compensation area, etc.)

The District shall submit one copy of the conceptual plan to BDE for review. As a part of the initial review, BDE may confer with the Corps of Engineers or the U S Fish and Wildlife Service (USFWS), or both, on a case-by-case basis to obtain a preliminary reaction to the conceptual plan prior to proceeding with further reviews. Any concerns or comments from these agencies will be relayed to the District. After BDE review of the conceptual compensation plan and resolution of any concerns identified, BDE will provide the plan to IDNR for concurrence in accordance with Section VI of the IDOT Wetlands Action Plan. Processing steps and timeframes for response will be as described in the IDOT Wetlands Action Plan. The project environmental documentation should summarize the details of the conceptual compensation plan as concurred in by IDNR. On projects for which an Environmental Impact Statement is prepared, a summary of the conceptual compensation plan information should be in the draft and final statement. If an Environmental Assessment is prepared, the summary conceptual compensation plan information should be in the document when it is made available for public and agency review. If the project qualifies as a Categorical Exclusion, a summary of the conceptual compensation plan information should be in the Phase I engineering report prior to design approval. For projects processed under the ECAD procedures, the conceptual compensation plan information also should be summarized in the ECAD Record.

### **2. Compensation Design Plan**

After the conceptual compensation plan has received the necessary concurrence from IDNR, appropriate information and details for the approved compensation plan should be included in the project design plans. The District should continue to analyze and incorporate, as practical, ways to avoid and minimize adverse wetland impacts as plan preparation progresses. (As a part of the design-phase compensation plan work, the District should proceed with development of any necessary Agreement with the entity or entities that will assume responsibility for long-term management of the compensation wetlands. The Agreement should be submitted to BDE as far in advance of the target letting date for the project as practical.) As appropriate, the design plan documents should include the following details for compensation to be provided through wetland restoration, enhancement, and/or creation.

- a. Earthwork: Grading plan with contours of final grading elevations, staging and method of grading, and topsoil stockpile site(s), (unless at contractor's discretion).

**BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 8**

- b. Planting plan and specifications: Species list, quantities, sizes, form (container-grown, bare root, cutting, sprig), spacing, grouping, staking requirements, timing of planting, weed control, etc.
- c. Hydrology: Inflow and outflow points and water control structures.
- d. Work schedule: The plans and specifications must reflect the timing of each construction phase for the wetland compensation site as required to ensure the successful establishment of wetland hydrology, plant materials, etc. **The wetlands compensation work should commence prior to or concurrent with the highway project construction work that causes the adverse wetlands impacts requiring the compensation** (i.e., compensation for wetland impacts that would occur under the first contract of a project should commence prior to or concurrent with the work under that contract and should not be put off to be addressed under a subsequent contract.)
- e. Special measures: A description should be included in the special provisions or plan notes for any special measures that will be implemented during construction of the wetland compensation site to avoid or minimize unnecessary construction-stage impacts to existing wetlands (e.g., designation of "no-work" areas, restrictions on utility relocation/accommodation that could affect wetlands, placement of geotextile fabric to prevent permanent compaction of wetland soils) and to correct temporary impacts that may occur (e.g., restoration of pre-construction contours, replanting or reseedling of areas in which wetlands vegetation is disturbed or destroyed). The plans also should include notations as necessary to ensure that the wetland compensation site will not be used as a construction staging area, concrete recycling site, temporary stockpile site for spoil soils or topsoil, or other such construction-related uses.
- f. Notification to BDE: The plans must include provisions for notifying BDE to facilitate monitoring and reporting on progress in accordance with the approved conceptual compensation plan. This must include notification when the wetlands compensation site construction work begins and when it is completed. In addition, the plans must provide for contacting the BDE Natural Resources Unit regarding any field changes that would affect the approved wetlands compensation plan in order that the changes can be coordinated with IDNR, as necessary, prior to implementation.

The information on hydrology should be described in the plan notes and shown on the plan sheets for grading work. Planting information should be shown on plan sheets for the planting work and in appropriate specifications. Estimates of quantities should be shown in the same way as those for highway construction to provide guidance to contractors bidding on the work. District personnel responsible for plan preparation



**BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 9**

should work closely with the District personnel and others, as appropriate, that were involved in the development of the wetlands compensation plan to ensure that the components of the compensation work are completely and accurately reflected in the plans.

The plan information for the wetlands compensation work should be submitted to BDE for review at 50% completion and at 100% completion. The District should address these submittals to the attention of the BDE Natural Resources Unit or should notify the BDE Natural Resources Unit by phone or e-mail when these submittals are being sent. One of these submittals must include an indication of the date the contract that will include the compensation site work is scheduled for letting. If the scheduled letting date subsequently changes, the BDE Natural Resources Unit should be notified. For project tracking purposes, the District also should notify the BDE Natural Resources Unit when the contract involving the wetland compensation site work is awarded and should advise that Unit of the anticipated date that construction work for the compensation site will begin.

When BDE receives the wetlands compensation plan information for review at 100% completion, it will coordinate the plan with IDNR for approval in accordance with Section VI of the IDOT Wetlands Action Plan. Approval also may be required from the Corps of Engineers (and the Corps may want to provide the plan to the USFWS for review and comment prior to making its decision). BDE will coordinate the compensation design plan to obtain the necessary approvals.

When the necessary approvals are received from IDNR and, as appropriate, the Corps of Engineers, BDE will provide the District with documentation of the approvals. The validity period for IDNR's approval of the compensation plan will be as stipulated in Section VI.B of the IDOT Wetlands Action Plan. If the District does not commence implementation of the compensation plan (i.e., acquire the mitigation site and/or begin the earthwork, planting, or other work necessary for the wetland restoration, enhancement, and/or creation) within three years of IDNR's approval, BDE should be contacted to request a reevaluation of site conditions. BDE will reinitiate evaluations of the site by the INHS and/or ISGS, as necessary, and will confer with the District on any changes needed in the compensation plan. BDE will re-coordinate the plan with IDNR, and, as necessary, with the Corps of Engineers, before implementation of the compensation plan may commence.

For projects involving wetland compensation work, it may be beneficial to provide for a pre-bid conference to afford an opportunity to answer any questions regarding the compensation plan.

## **5. Compensation Plan Implementation**

Once the compensation plan has received any needed approvals from IDNR and the Corps of Engineers, the District may proceed with actions necessary to implement the plan. **Projects involving adverse wetlands impacts should not proceed to letting until the wetland compensation plan has been approved.**

### **A. Compensation Plan for Use of Preexisting Wetland Credits**

When the approved plan calls for use of credits from an IDOT bank site, the District and BDE will coordinate to accomplish the necessary accounting for the application of credits on the project. When the approved plan calls for acquiring credits from a commercial bank or other outside source, the District should proceed with the actions necessary to secure the credits for the project. (Piecemeal acquisition of compensation credits for a project is discouraged. To the fullest extent practical, all of the compensation credits required for a project should be provided/acquired concurrently.) The credits must be provided/secured before the associated adverse wetland impacts occur. Once the credits are secured, written confirmation must be provided to BDE to verify compliance with the terms of the approved compensation plan. For purchase of credits from commercial banks, the written confirmation must include documentation from the bank owner/manager indicating that the credits have been purchased. BDE will coordinate the written confirmation with the IDNR and the Corps of Engineers, as necessary.

### **B. Compensation Plan for Wetlands Restoration, Enhancement, and/or Creation**

When compensation will be provided through wetlands restoration, enhancement, and/or creation, careful oversight will be required to ensure that the compensation plan is implemented as approved, including any long-term monitoring and reporting required. **(Implementation of the wetlands compensation site construction work should commence prior to or concurrent with the contract for the highway project construction work that causes the adverse wetlands impacts requiring the compensation.)** This oversight responsibility will apply throughout construction of the compensation site and beyond until success criteria have been met and the compensation site is transferred for long-term management. The considerations described below should be addressed as implementation of the compensation plan proceeds (e.g., through District procedures for tracking and follow-through on commitments, or other suitable means). BDE will have ongoing involvement in the oversight for monitoring activities and in the coordination of the results of those activities with the IDNR and Corps of Engineers, as appropriate.

**BDE PROCEDURE MEMORANDUM 33-03**

**July 11, 2003**

**Page 11**

1. Land Acquisition Phase

- a. Parcels necessary for accomplishing the wetlands compensation work should be acquired in a timely manner to facilitate conducting the wetlands work at the proper time in the project construction schedule.
- b. If the property will be transferred to an entity other than the IDNR, suitable deed restrictions, conservation easements, or other enforceable legal mechanisms must be included in the documents for transfer of compensation wetlands to prevent future activities at the site(s) that would be incompatible or potentially harmful to the wetlands.

2. Construction Phase

- a. It may be beneficial for the pre-construction conference on the project to include discussion of logistics and other issues relating to the wetland compensation plan, as necessary to promote understanding of the objectives of the plan and to respond to any questions or concerns. Depending upon the complexity of the compensation plan, consideration should be given to inviting BDE and District staff that were involved in development of the compensation plan, as well as the planting contractor or other special sub-consultants that will be involved in the wetlands work. The following topics may be appropriate for discussion:
  - i. Scheduling in relation to other project construction work
  - ii. No-work areas (e.g., existing wetlands or other areas to be avoided)
  - iii. Topsoil stockpile sites
  - iv. Utility relocation/accommodation issues
- b. BDE must be notified at key points in implementation of the wetland compensation plan to facilitate appropriate monitoring and reporting on progress in accordance with the provisions in the approved compensation plan. This must include notification when the wetlands compensation site construction work begins and when it is completed. The notification when the work is finished shall occur within 30 days of completion, and prior to closing out the contract, to afford time for a final check of the site and to allow for accomplishing any associated corrective measures that may be necessary. In response to this notification, BDE will provide a compensation site post-construction evaluation report to IDNR, as required by the IDOT Wetlands Action Plan and the implementing rules for the Interagency Wetland Policy Act.
- c. Any proposed field changes that would affect components of the wetland compensation as approved by IDNR and the Corps of Engineers must be coordinated with the BDE Natural Resources Unit prior to proceeding. As necessary, BDE will confer with IDNR and the

Corps of Engineers regarding the effect of the proposed changes on the approved wetland compensation plan.

3. Operations Phase

- a. When BDE receives notification from the District that activities for construction of the wetland compensation site have been completed, it will task the INHS and ISGS to begin monitoring of the site in accordance with the monitoring plan component of the compensation plan approved by IDNR and the Corps of Engineers. BDE will review the monitoring reports and then transmit them to the District, with copies to IDNR and the Corps of Engineers, as appropriate. The transmittals and monitoring reports will identify any needed management or maintenance measures for the wetland site and will include an assessment of the progress toward attainment of the site performance standards. The District will be responsible for accomplishing any identified management and/or maintenance measures in accordance with the site management component of the approved wetland compensation plan. BDE will be available to provide guidance as needed.
- b. Districts must ensure that maintenance personnel are aware of the location and limits of wetland compensation sites that could be affected by maintenance operations. Wetland compensation sites adjacent to highway rights-of-way must be protected from mowing, weed spraying, or other operations activities where those activities would adversely affect the wetlands.
- c. When the monitoring reports indicate that site performance standards have been attained, BDE will include a request for final approval of the compensation site in the transmittal of the monitoring information to IDNR and the Corps of Engineers. The request will offer the option for either agency to request an on-site meeting to inspect the compensation area prior to giving approval. BDE will coordinate with the District on arrangements for on-site meetings, if requested. After IDNR and the Corps of Engineers have approved the compensation site, monitoring will be terminated and the District may begin the process of transferring the site for long-term management. District and central Land Acquisition Bureaus must ensure that transfer of wetlands compensation sites for long-term management complies with Section XI of the IDOT Wetland Action Plan and the provisions of any agreements executed with the entity that is to receive the site.

**6. Development of IDOT Wetland Banks**

Districts may propose development of IDOT wetland banks for use in providing compensation credits for offsetting unavoidable adverse wetland impacts resulting from highway projects. The following procedures will apply.\*

*\* If the proposed IDOT wetland bank will be within an area covered by an area-specific Federal or State interagency agreement or directive governing wetland banking activities (e.g., the "Interagency Coordination Agreement on Wetland Mitigation Banking Within the Regulatory Boundaries of Chicago District, Corps of Engineers"), the provisions of that agreement or directive will govern to the extent that its requirements are different from the details in this part of the Wetlands Compliance Procedures. BDE will be available to provide assistance as necessary for complying with applicable alternative requirements and still should be involved in review of information prepared for evaluation of potential banking sites and information for development of the bank prospectus and banking instrument/charter. In addition, BDE still should be involved in coordinating information regarding development of the prospectus and banking instrument with Mitigation Bank Review Team (MBRT) agencies as discussed in these procedures.*

**A. Site Identification and Evaluation**

The District should take the lead in identifying proposed sites for IDOT wetland bank development. The Corps of Engineers district offices and the local offices of the USFWS, Natural Resources Conservation Service, and IDNR may be able to provide useful information on potential bank sites in their area of jurisdiction. Districts should be aware that some Corps of Engineers district offices may stipulate minimum sizes for banks that will be used to provide compensation credits under the Section 404 permit requirements. Districts should confer with the Corps of Engineers district office(s) that have jurisdiction to determine the nature and applicability of any such constraints.

As with proposed sites for wetlands restoration, enhancement, or creation, after the District has identified a site it wishes to pursue for use as a wetland bank, it should submit information to BDE to request a more detailed assessment of the suitability of the site for wetland compensation purposes. The information provided to BDE should include a map (7.5' topographic map or plat map) showing the location and boundary of the site and should also indicate the size and ownership of the site. In response to this submittal, BDE will make a preliminary site suitability evaluation, based on soils information. If BDE has concerns about the suitability of the site based on this preliminary evaluation, it will confer with the District before proceeding with any further studies or evaluations of the site. If BDE does not identify any immediate site suitability concerns, or if its concerns are resolved, it will forward the information to the INHS and ISGS, as appropriate, and have them conduct further investigations of the hydrology, soils, vegetation, and adjacent land use

for the proposed site. (As necessary, BDE will contact the District to confirm that landowner permission has been obtained or that written notification has been provided prior to having the INHS/ISGS proceed with the on-site investigations.) BDE will forward the results of the site assessments to the District with recommendations on the suitability of the site for wetland banking purposes.

For sites which the District wishes to continue to pursue, an Environmental Survey Request form should be submitted to BDE to initiate evaluations of the site for cultural resources and for screening against the Natural Heritage database for endangered and threatened species or Illinois Natural Area Inventory sites. The District should also evaluate the site for special waste in accordance with the procedures in Section 27-2 of the *Bureau of Design and Environment Manual*. For sites on agricultural land, the District will need to coordinate with the Natural Resources Conservation Service of the U.S. Department of Agriculture to obtain certification on the status of wetlands on the site (e.g., prior-converted wetlands, farmed wetlands).

#### **B. Mitigation Bank Prospectus**

To initiate the planning and review process with outside agencies for a proposed bank site, the District will be responsible for preparing a Mitigation Bank Prospectus. Preparation of the prospectus should not begin until site evaluations and any necessary coordination for cultural resources, endangered species/natural areas, or special wastes have been completed and the District and BDE have conferred regarding suitability of the site for banking purposes. After the District and BDE confer and decide to proceed with proposing use of a site for wetland banking purposes, BDE will contact the appropriate Corps of Engineers district(s) and IDNR to obtain their preliminary views on the proposal. BDE will provide the District any information or views provided by the Corps and IDNR for consideration in preparing the prospectus in accordance with the outline below. BDE will be available to provide assistance, as needed.

##### Prospectus Content

The prospectus provides information that IDNR and the Corps of Engineers will use to evaluate the need for, and technical feasibility of, a proposed mitigation bank. The prospectus should contain the following information:

- The site location, size, and legal description
- A delineation of any wetlands or other jurisdictional areas that may exist at the proposed bank location

- The type of real estate interest proposed for the bank site
- The type of bank proposed (e.g., government agency bank for use in offsetting unavoidable adverse wetland impacts of highway projects)
- The method of credit production (e.g., restoration, creation, enhancement, preservation), the number of credits to be produced by each method, and the rationale for crediting
- A general site plan showing the location of all existing and proposed wetland and upland habitats, roads, trails, structures, utilities, and any other existing or proposed site improvements
- A preliminary bank site construction plan and schedule of completion, preliminary planting plan, and preliminary administrative, management, and monitoring plans
- An outline of management and maintenance responsibilities

(For bank site proposals within the Chicago District of the Corps of Engineers, the prospectus also must include a statement regarding compliance with the "Interagency Coordination Agreement on Wetland Mitigation Banking within the Regulatory Boundaries of Chicago District, Corps of Engineers.")

The District should submit one copy of the prospectus to BDE for review. After BDE review of the prospectus and resolution of any concerns identified, BDE will coordinate the prospectus with the Corps of Engineers and IDNR. After the Corps of Engineers and IDNR have responded to the prospectus, the District and BDE will confer on whether to continue to pursue acquisition and development of the proposed bank site. When it is decided that a site will be acquired and established as a bank, the District should proceed with preparation of a Mitigation Banking Instrument, in accordance with the outline below.

### **C. Mitigation Banking Instrument**

All mitigation banks must have mitigation banking instruments to document concurrence of all the responsible State and Federal agencies in the objectives and administration of the banks. This will include IDOT, the IDNR, the Corps of Engineers, the U S Environmental Protection Agency (USEPA), and the USFWS. The banking instrument will document in detail the physical and legal characteristics of the bank and how the bank will be established and operated. The District will be responsible for preparing the Mitigation Banking Instrument. BDE will be available to provide assistance, as needed.

Mitigation Banking Instrument Content

The mitigation banking instrument should address the following items:

- Bank goals and objectives
- Ownership of bank lands
- Bank size and classes of wetlands and/or other aquatic resources proposed for inclusion in the bank, including a site plan and specifications
- Description of baseline conditions at the bank site
- Geographic service area
- Wetland classes or other aquatic resource impacts suitable for compensation from the bank
- Methods for determining credits and debits
- Accounting procedures
- Performance standards for determining credit availability and bank success
- Reporting protocols and monitoring plan
- Contingency and remedial actions and responsibilities (if performance standards are not being met)
- Compensation ratios
- Provisions for long-term management and maintenance

The District should submit one copy of the Mitigation Banking Instrument to BDE for review. After BDE review of the Mitigation Banking Instrument and resolution of any concerns identified, BDE will coordinate the document with the Corps of Engineers, the IDNR, the USEPA, and the USFWS. These agencies generally will constitute the MBRT for mitigation banking proposals in Illinois. After review by the MBRT and resolution of any concerns identified, BDE will coordinate the Mitigation Banking Instrument for final execution. The Secretary of IDOT and a representative of each of the agencies on the MBRT will sign the Mitigation Banking Instrument. BDE will provide the District a copy of the executed Mitigation Banking Instrument and will advise that implementation of the steps to establish the bank may proceed.



**D. Mitigation Bank Implementation**

After approval to proceed with implementation of the mitigation bank proposal, the District may initiate property negotiations for acquiring the site and may proceed with arrangements for any site work necessary to establish wetlands credits. Careful oversight will be required to ensure that the provisions of the Mitigation Banking Instrument are implemented as approved, including any long-term monitoring and reporting required. BDE should be involved as implementation proceeds, as necessary to accomplish monitoring to ensure consistency with the approved bank plan and to evaluate progress toward establishment of mitigation credits. BDE also will be involved in reporting to the MBRT on implementation of the mitigation bank, in accordance with the reporting protocols in the Mitigation Banking Instrument.


Engineer of Design and Environment

A handwritten signature in black ink, appearing to read "Michael L. Hine", is written over a horizontal line.

Attachment

Illinois Department of Transportation  
WETLANDS ACTION PLAN  
April 15, 1998

  
\_\_\_\_\_  
IDOT Approval      4/15/98  
Date

  
\_\_\_\_\_  
IDNR Approval      21 Apr 98  
Date

**I. Purpose**

The purpose of this Action Plan is to set forth a framework of policy and procedures for the Illinois Department of Transportation (IDOT) that will establish compliance with the goals of the Interagency Wetland Policy Act of 1989 (the Act) and the "Implementing Procedures for the Interagency Wetland Policy Act" (17 Ill. Adm. Code 1090).

**II. Applicability**

This Action Plan applies to all IDOT and IDOT pass-through funded projects involving adverse impacts to wetlands except those actions specifically exempted. Approvals to proceed with construction of non-exempted actions adversely affecting wetlands will be contingent on demonstrating compliance with this Plan. For IDOT pass-through funded projects, the entity receiving the pass-through funds will be responsible for complying with the provisions of this Plan. For such projects, IDOT may require the entity receiving the pass-through funds to assume responsibility for necessary wetlands-related studies and coordination with the Illinois Department of Natural Resources (IDNR) which this Plan describes as IDOT responsibilities.

In accordance with 17 Ill. Admin. Code 1090.20 (Implementing Procedures for the Interagency Wetland Policy Act), actions that may involve adverse wetlands impacts include, but are not limited to:

- The alteration, removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, vegetation, or naturally occurring materials of any kind from a wetland;
- The discharge or deposit of fill material or dredged material into a wetland;
- The alteration of existing drainage characteristics, sedimentation patterns, or flood retention characteristics of a wetland;
- The disturbance of the water level or water table of a wetland;
- The destruction or removal of plant life that would alter the character of a wetland, except for activities undertaken in accordance with the Illinois Noxious Weed Act; and
- The transfer of State-owned wetlands to any entity other than another State agency.

Compliance with this Action Plan is not required for any construction, land management, or other activity funded or performed by IDOT which will *not* result in an adverse impact to a wetland. In addition, in accordance with 17 Ill. Admin. Code 1090.20, the following activities also are specifically excluded from the State wetlands compliance requirements:

- Activities undertaken for the maintenance of existing ponds, storm water detention basins and channels, drainage ditches or navigation channels
- Installation of signs, lighting and fences and the mowing of vegetation within existing maintained rights-of-way, provided such actions do not jeopardize the existence of a

## **Wetlands Action Plan**

April 15, 1998

Page 2

threatened or endangered species, Illinois Natural Area Inventory Site, or the designated essential habitat of a threatened or endangered species

- Repair and maintenance of existing buildings, facilities, lawns, and ornamental plantings
- Issuance of permits and licenses
- Construction projects that were let for bidding prior to May 6, 1996
- Application of media (including deicing chemicals) on the surface of existing roads for the purposes of public safety
- Non-surface disturbing surveys and investigations for construction, planning, maintenance or location of environmental resources

After initial approval by IDNR, this Plan shall continue in effect, subject to renewal through IDNR every 4 years in accordance with 17 Ill. Adm. Code 1090.40(d).

### **III. Consistency with Existing IDOT Policies and Procedures**

Upon acceptance by IDNR, this Action Plan becomes IDOT's framework for compliance with the Interagency Wetland Policy Act. To the extent that there are any inconsistencies between this Plan and existing IDOT Departmental Orders, policies, and operating procedures regarding wetlands, this Action Plan supersedes such Orders, policies, and procedures until they are revised to achieve consistency.

### **IV. Identification and Delineation of Wetlands**

At the earliest practical stage in the project planning process, an assessment will be made of the extent to which wetlands will be affected. Unless an Illinois-specific manual is available and approved for use, the current approved federal manual for identifying and delineating wetlands shall be used as the basis for determining wetlands subject to the Act. Wetlands shall be categorized according to the types listed in Appendix B. Additional regulatory guidance issued by the Corps of Engineers for the federal wetlands manual (e.g., concerning the treatment of farmed wetlands) also will be followed, as applicable. The most recent version of the "National List of Plant Species that Occur in Wetlands" published by the U S Fish and Wildlife Service will be used to determine hydrophytic vegetation. The most recent list of hydric soil map units maintained by each county Natural Resources Conservation Service Office will be used when locating areas of hydric soils.

The National Wetlands Inventory (NWI) maps and wetland maps that may be produced by local jurisdictions shall be used in determining the need to undertake field surveys to delineate and evaluate wetlands affected by IDOT or IDOT pass-through funded projects. Consideration also shall be given to the location of the project in the landscape and the proposed scope of work. Where wetlands are likely to occur and where such wetlands could be affected by the proposed project, field investigations shall be conducted to verify the presence of wetlands and to delineate any wetlands in the area the project may affect.

### **V. Policy on Wetlands Impacts and Compensation**

Each Division of IDOT responsible for activities subject to the requirements of this Action Plan shall ensure that its policies and operating procedures reflect the following sequence of actions

## **Wetlands Action Plan**

April 15, 1998

Page 3

for addressing adverse wetlands impacts while giving due consideration to safety and appropriate design standards:

First priority:        Avoidance of adverse wetland impacts.

Second priority:     Minimization of adverse wetland impacts.

Third priority:       Compensation for unavoidable adverse wetland impacts in accordance with the ratios in 17 Ill. Admin. Code 1090.50 c 8.

Wetland impacts of less than 0.3 acre resulting from IDOT or IDOT pass-through funded projects will be compensated for from a wetland compensation account site or other approved source of preexisting wetland credits (e.g., commercial wetland bank), or may be accumulated for compensation in a larger compensation site or sites. In either case, the compensation will be subject to the applicable ratios specified in 17 Ill. Admin. Code 1090.50 (c) (8). Opportunities to compensate for accumulated impacts will be pursued, as practical, when developing project-specific wetlands compensation for larger impacts, when new wetland compensation account/bank sites become available for use, or when establishment of a site or sites to offset accumulated impacts is determined appropriate as a stand-alone project.

Any accumulated acres of impact associated with IDOT or IDOT pass-through funded projects will be accounted for on the basis of the boundaries of the nine IDOT highway districts. IDOT will confer with IDNR at least once each year regarding the status of any accumulated impact balances in each of the IDOT highway districts and the status of compensation to offset the accumulated balances. The total of accumulated acres of impacts at any given time shall not exceed 5 acres in any IDOT highway district or 25 acres statewide. If accumulated balances approach either of these thresholds, IDOT will confer with IDNR to decide how compensation will be provided to reduce the accumulated balances.

Compensation for unavoidable adverse impacts of 0.3 acre or more, will be provided prior to or concurrent with the project action causing the wetland impact. In proposing such compensation for IDOT or IDOT pass-through funded projects, priority shall be given to locating the compensation close to the impacted wetlands to the extent practical. In evaluating the practicality of sites for potential use, the following will be considered:

- A. The site must be suitable for establishment of wetlands; i.e., contain hydric soils and be capable of providing suitable wetlands hydrology.
- B. IDOT, or the local agency responsible for an IDOT pass-through funded project, must be able to acquire the site for wetlands compensation purposes (i.e., for sites that are not adjacent to existing or proposed project right-of-way, either the site must have a willing seller or IDNR will provide written documentation confirming suitability of the site for use, in order to support condemnation action by IDOT, or local agency, in the case of an IDOT pass-through funded project).
- C. For sites that are not adjacent to existing or proposed project right-of-way, it must be possible for an agreement to be reached for transferring jurisdiction and responsibility for long-term management to the IDNR or another entity that meets the requirements of 17 Ill. Admin. Code 1090.90. (IDOT or a local highway agency ordinarily will assume

## **Wetlands Action Plan**

April 15, 1998

Page 4

responsibility for long-term management of sites adjacent to existing or proposed highway rights-of-way.)

When adverse wetlands impacts occur, one-for-one replacement of new wetlands of comparable functional type and size will be provided through wetlands restoration or creation before acquisition or research alternatives are considered. Buffer areas may be included for compensation credit when such areas are important to the protection of the compensation wetlands and the maintenance of their functions. The amount of credit allowed for buffer areas will be determined in consultation with IDNR on a case-by-case basis.

If a wetland compensation plan that meets the objectives of the Act cannot be developed, or if unique opportunities exist to further the goals of the Act through other means, approval may be requested from IDNR for the following:

- Acquisition of high quality wetlands and associated buffer;
- Funding of needed relevant research; or
- Wetlands compensation that provides replacement of the same and different wetland types as the adversely impacted wetlands.

Consistent with the requirements of the Interagency Wetland Policy Act, IDOT Divisions shall consider opportunities for increasing the quantity and quality of the State's wetlands resources as a component of ongoing operations to augment the amounts of wetlands provided through compensatory mitigation. These opportunities will be pursued primarily through cooperative initiatives with the IDNR. Such opportunities will be assessed for practicality and implemented as funding and manpower resources allow.

In identifying and evaluating potential sites for IDOT wetlands compensation accounts or other project-specific wetlands compensation, IDOT will coordinate with IDNR to obtain information as appropriate on potential sites that would be suitable for establishment of wetlands and that would complement IDNR natural resource programs and property management objectives. IDOT will consider the information from IDNR along with information obtained from other sources in proposing sites for approval. As practical, IDOT will give priority to pursuing the sites that would complement IDNR programs and objectives in developing compensation for IDOT projects.

## **VI. Processing Procedures**

Project coordination with IDNR for actions subject to this Action Plan will be in accordance with the "Natural Resource Review and Coordination Agreement Between IDNR and IDOT," as executed in January 1996, or as subsequently amended, and the procedures in this section.

When potential impacts are identified, alternatives for avoiding and minimizing adverse impacts will be analyzed, consistent with applicable design standards and safety considerations. When the analysis of alternatives determines that the project will involve unavoidable adverse wetland impacts, IDOT will coordinate wetlands issues with IDNR in accordance with the following:

## **Wetlands Action Plan**

April 15, 1998

Page 5

### **A. Programmatic Review Actions**

For purposes of this Action Plan, Programmatic Review Actions are those which involve impacts to wetlands only in areas where construction is within existing rights-of-way or in new right-of-way which is contiguous to (i.e., does not separate from) the existing right-of-way and for which there is no practicable alternative which would avoid adverse wetlands impacts. Examples of project-types that could qualify as Programmatic Review Actions if they meet the preceding criteria include, but are not limited to, the following: adding through or auxiliary lanes to an existing highway, widening and resurfacing existing pavements, widening shoulders on an existing highway, realigning an existing intersection, reconstructing or replacing an existing bridge, constructing runaround detours or temporary stream crossings, and installing scour countermeasures (e.g., flexible revetment, rigid revetment, or flow control structures) for existing bridges.

Adverse wetland impacts resulting from Programmatic Review Actions will be compensated in accordance with the "minimal alteration" ratios specified in 17 Ill. Admin. Code 1090.50 c 8 except when the affected wetlands involve any of the factors specified in that section as requiring application of a 5.5:1 ratio.

For projects which qualify as Programmatic Review Actions, project-specific coordination with IDNR for wetlands compliance generally will not be required. However, when the work involving wetlands will require coordination with the Corps of Engineers for approval of a wetlands compensation plan, IDOT will provide information describing the proposed compensation to IDNR. This submittal will allow appropriate IDNR staff the opportunity to review and comment on the proposed compensation prior to receiving the compensation plan information as a part of the permit information from the Corps. In addition, IDOT will provide IDNR periodic lists of all projects that qualified as Programmatic Review Actions and were not coordinated with IDNR. The lists will be provided quarterly during the first year of operation under this Wetlands Action Plan, semiannually during the second year of operation, and annually thereafter. The lists will include the following information for each Programmatic Review Action:

- Project name/number
- Project type and location
- NWI classification code for each wetland affected
- Approximate size of the wetlands area(s) to be adversely affected by the project
- Description of compensation
- Current status and anticipated year of construction

IDOT will maintain complete files on all actions processed under this programmatic procedure. These files will be made available for audit by IDNR upon request.

For each Programmatic Review Action in which compensation will be provided through wetlands restoration or creation on a project-specific basis, IDOT will provide periodic monitoring reports in accordance with Section X of this Plan. IDOT also will notify IDNR at the end of the wetland compensation monitoring period to advise that the compensation work has been completed and to report on its success.

## **Wetlands Action Plan**

April 15, 1998

Page 6

### **B. Standard Review Actions**

For purposes of this Plan, Standard Review Actions are projects which involve unavoidable adverse wetlands impacts and which do not qualify as Programmatic Review Actions. Consultation with IDNR regarding wetlands shall occur on a project-by-project basis for Standard Review Actions. As the initial step in the wetlands coordination process for Standard Review Actions, IDOT will submit a Wetland Impact Evaluation to IDNR. This evaluation will be submitted after the analysis of avoidance and minimization alternatives has been completed and the anticipated location and extent of any unavoidable adverse wetlands impacts has been determined. The Wetland Impact Evaluation will include the following:

- Information identifying the wetland site(s) affected and the relationship to the proposed action (including wetland delineation report(s), forms, and map(s), and NWI map(s) for the project area);
- Information describing the proposed work affecting each individual wetland (e.g., placement of fill, excavation, draining, removal of vegetation) in sufficient detail to allow a thorough review of the potential adverse wetlands impacts;
- Anticipated starting and ending dates for the project, if known;
- Indication of the total acreage expected to be converted from wetland habitat to other use(s); and
- Description of alternatives considered and an explanation of why there are no practicable alternatives to the proposed action.

Within 30 days of receipt of the Wetlands Impact Evaluation, IDNR will advise IDOT of any deficiencies in the information provided. IDNR will notify IDOT in writing of the date the Wetlands Impact Evaluation is deemed filed. Unless extended by written agreement between IDOT and IDNR, IDNR will complete its review of the Wetland Impact Evaluation within 60 days of the date it is deemed filed and will respond in accordance with 17 Ill. Adm. Code 1090.50 (a)(2). IDOT may request a reevaluation of IDNR's response in accordance with 17 Ill. Adm. Code 1090.50 (a)(2)(D). IDNR's final response to the Wetland Impact Evaluation will be valid for 3 years and shall be extended by IDNR upon demonstration that the project is being pursued in good faith and the conditions of the site have remained substantially unchanged.

For unavoidable adverse wetlands impacts resulting from Standard Review Actions, a project-specific wetland compensation plan will be prepared for approval by IDNR. When the necessary compensation is proposed from a wetland compensation account or other approved source of preexisting compensation credits, the compensation plan will provide information in accordance with Section VII A, below. For all other Standard Review Actions, IDNR will be provided a project-specific conceptual plan (see Section VII B) for concurrence and a wetland compensation plan (see Section VII C) for approval. IDOT will expect that the response from IDNR to the conceptual plan will indicate whether compensation sites proposed are acceptable, and whether

## **Wetlands Action Plan**

April 15, 1998

Page 7

IDNR has any other suitable sites available on which the necessary compensation would be feasible.

Unless IDOT and IDNR mutually agree to a longer time period, IDNR will respond to compensation plan submittals within 45 days of receipt. IDOT will accomplish follow-up coordination with IDNR as necessary to respond to comments from IDNR regarding the compensation proposal.

Proposals for use of wetland research funds to provide any part of the required compensation will be developed in consultation and coordination with IDNR and the Interagency Wetland Committee. Review and processing times described above will not be operative when compensation plans propose use of research funding for compensation. In these cases, IDNR will notify IDOT within 30 days of receipt of the compensation plan as to when the Committee will be convened to review the proposal for use of research funds. The review by the Committee should occur at the next regularly-scheduled Committee meeting or within 60 days of receipt of the plan by IDNR, whichever occurs first.

For Standard Review Actions, construction that would adversely affect wetlands will not commence until consultation with IDNR has occurred and IDNR has either approved the wetland compensation plan for unavoidable adverse wetland impacts or agreed that the impacts may be accumulated for after-the-fact compensation.

As provided in 17 Ill. Adm. Code 1090.50 (5), IDNR approval of a compensation plan is valid for three years. For projects involving a conceptual plan and a wetland compensation plan, the three-year time frame will begin upon approval of the wetland compensation plan. If IDOT does not commence implementation of a wetland compensation plan within the three year time frame, IDOT will re-coordinate with IDNR to renew the approval prior to proceeding with implementation of the compensation plan. IDOT will determine whether any changes have occurred at the proposed compensation site which would require revision of the compensation plan and will advise IDNR. If such changes have occurred, the plan will be revised as necessary to respond to those changes.

For Standard Review Actions, status reports will be provided to IDNR on implementation of wetland compensation plans involving wetlands restoration or creation, in accordance with 17 Ill. Adm. Code 1090.50 (6). These reports will include the following:

- A post-construction site evaluation report which will be submitted within 90 days after completion of any construction, seeding, planting, etc. necessary for establishing the replacement wetlands;
- Up to 4 annual reports on the status of the replacement wetlands and any associated buffer; and
- A final report on the status of the replacement wetlands and any associated buffer which will be submitted 5 years after the post-construction evaluation report.



## **Wetlands Action Plan**

April 15, 1998

Page 8

### **VII. Content of Wetland Compensation Plans**

#### **A. Plans for Use of Approved Preexisting Compensation Credits**

When all of the necessary wetland compensation for a project is proposed from an approved wetland compensation account or other approved source of preexisting wetland credits, the following information will be provided in the wetland compensation plan:

- Project name/number, location, and description
- Name and address of the office responsible for the project
- Indication of type(s) (per Appendix B), amount(s), and locations of wetlands affected, including the drainage basin(s) and watercourses involved
- Description of alternatives which would avoid or minimize adverse impacts to the wetland and, as applicable, the reasons for their rejection
- Reasons for proposing use of an approved wetland compensation account or other source of preexisting wetland credits
- Description of the applicable compensation ratio(s), the amount and type (per Appendix B) of compensation credit to be provided, and the source of the credits, including location, current balances and any pending changes

#### **B. Conceptual Plan**

When all or a part of the necessary compensation will be provided through establishment of wetlands on a project-specific basis, a conceptual plan will be provided to outline the proposed compensation. The conceptual plan will present sufficient preliminary information to enable IDNR to concur in the proposed location and approach to providing compensation prior to proceeding with development of the details necessary for actually implementing the compensation.

The following is an outline of information that a conceptual compensation plan may include. The first two items will be provided in all cases. The remaining items will be addressed as necessary and appropriate to adequately describe the project's involvement with wetlands and the proposed compensation.

- Project name/number, location, and description
- Name and address for the office responsible for implementation of the wetland compensation plan
- Date of and summary statement of wetland surveys and the name, work address, and phone number of person(s) conducting surveys
- Indication of type(s) (per Appendix B) and amount(s) of wetland affected, including drainage basin(s) and watercourse(s) involved
- Description of alternatives considered which would avoid or minimize adverse impacts to the wetland and, as applicable, the reasons for their rejection
- Description of the precise location of the proposed wetland replacement site (including a map, legal description, and an indication of the distance from the wetland impact location(s) for which it provides compensation) and an indication of its current land use, biological, hydrological, and soils characteristics

## **Wetlands Action Plan**

April 15, 1998

Page 9

- Description of the proposed wetlands compensation, including a clear statement of goals, description of compensating wetlands to be created, restored, or acquired (including type(s) per Appendix B, and a conceptual plan drawing showing approximate layout, shape, etc.); compensation ratios to be applied; any research funding proposed in lieu of other compensation; and, if use of preexisting wetlands credits is proposed as a component of the compensation, the source of the credits, including current balances and pending changes
- General description of the work (e.g., grading, planting, importation of topsoil, alteration of hydrology) proposed to establish compensation site(s)
- Indication of the entity(ies) that will assume long-term responsibility for compensation sites to be established

### **C. Wetland Compensation Plan**

A detailed wetlands compensation plan will provide the level of information necessary for implementing proposed compensation. The wetland compensation plan will include the information from the conceptual plan in addition to the items listed in 17 Ill. Adm. Code 1090.50 (c) (3), as necessary and appropriate for the specific compensation proposed.

## **VIII. Wetland Compensation Accounts**

IDOT recognizes the benefits of consolidating compensation for numerous small impacts in larger sites. Such consolidation allows for economies of scale in planning, implementation, and maintenance of compensation and promotes the establishment of wetlands in advance of impacts that offer the potential for providing a broader range of functional benefits. IDOT also acknowledges the advantages such sites offer in terms of their potential for being located and sized to complement the plans and programs of resource agencies to make the sites more desirable for long term management and to provide enhanced environmental and social benefits for the people of Illinois. IDOT will actively pursue the development and use of wetland compensation account sites as practical for IDOT and IDOT pass-through funded projects, to maximize the benefits such sites provide. Establishment of wetland compensation accounts by IDOT or local agencies and project sponsors for use in complying with wetlands compensation requirements under the Act will be accomplished through formal agreement with IDNR. The unit of measurement for debits and credits will be established in the agreement for the compensation account. Use of credits from wetland compensation accounts will be subject to the compensation ratios in 17 Ill. Admin. Code 1090.50.

## **IX. Authority and Policies for Acquisition of Wetland Compensation Land**

IDOT may acquire for highway purposes any property necessary for a highway project, or any other property for which a specific appropriation has been made. Mitigation property on-site or contiguous to a project will be described and discussed in appropriate project planning and design documents to adequately establish the necessity of acquisition. For other mitigation parcels, the need will be documented in wetland compensation account proposals or compensation plans submitted by IDOT and in written approval of such proposals and plans by IDNR.

## **Wetlands Action Plan**

April 15, 1998

Page 10

Lands for IDOT wetland compensation accounts will be acquired through whatever means IDOT determines appropriate, consistent with IDOT's statutory powers and authorities.

Local agencies and sponsors may use available eminent domain authority for compensation land within project rights-of-way and, when specifically allowed by law, for off-site compensation.

### **X. Monitoring**

Monitoring and reporting procedures for wetland compensation areas will be addressed in accordance with the following:

- A. For IDOT or local agency wetlands compensation account (bank) sites, monitoring and reporting requirements will be specified in the interagency agreement with IDNR and other appropriate signatories authorizing establishment of the sites.
- B. For project-specific wetlands restoration or creation associated with Standard Review Actions or with Programmatic Review Actions that will require coordination with the Corps of Engineers for approval of the wetland compensation plan, monitoring and reporting procedures will be determined in consultation with the IDNR and the Corps of Engineers as a part of the Wetland Compensation Plan.
- C. For project-specific wetlands restoration or creation associated with Programmatic Review Actions that do not require coordination with the Corps of Engineers for approval of a wetlands compensation plan, monitoring procedures will be documented in the compensation plan on file for the project and will be based on the guidance in Chapter 5 of the "Illinois Wetland Restoration and Creation Guide" (Illinois Natural History Survey Special Publication 19, March 1997), and Chapter 8 of NCHRP Report 379 "Guidelines for the Development of Wetland Replacement Areas." The monitoring procedures will be commensurate with the size and complexity of the wetlands to be restored/created. For these actions, IDNR will be provided an annual report of the monitoring results for a period of up to 5 years, as necessary to verify wetlands success. This will be in addition to the information provided in the periodic summary reports on Programmatic Review Actions described in Section VI A.
- D. Monitoring will be carried out by or under the direction of IDOT except when that responsibility is delegated to a local agency or sponsor, subject to approval by IDNR of the monitoring plan of that local agency or sponsor.

### **XI. Transfer of Wetlands**

Whenever IDOT can transfer management responsibility for wetland compensation areas without jeopardizing project operation, it will submit a written request to IDNR for approval of the transfer. IDOT will ask that IDNR respond to such requests within 60 days. IDOT will identify the proposed recipient of the land and will provide or outline the terms of the transfer agreement. IDOT generally will give preference to qualified entities which can ensure appropriate management without need for funding support from IDOT for assuming the management activities.

## **Wetlands Action Plan**

April 15, 1998

Page 11

In accordance with the requirements of the Act, and subject to obtaining any required approvals from the Governor or the State Legislature, IDOT will transfer compensation wetlands (other than those which are located within or that are otherwise an integral part of project rights-of-way) to IDNR or other eligible sponsors subject to formal transfer agreements that will fulfill all obligations of IDOT related to the approved compensation plan. In the event that IDOT is unable to find any other suitable entity to assume responsibility for long-term management of IDOT-developed wetland compensation sites, IDOT will transfer such sites to IDNR for long-term management. Such transfer shall not require a commitment from IDOT to provide funds to IDNR to support the management activities.

As long as wetland compensation property is held by IDOT, it will be maintained for its designated use. Where wetland compensation sites for IDOT pass-through funded projects are under the jurisdiction of a local agency, IDOT will require the local agency to ensure that the site will be maintained for wetlands purposes. Local agencies or sponsors may transfer wetlands or maintenance responsibilities to other public or private entities when allowed by law, subject to obtaining IDNR approval of such transfer.

If IDOT proposes the sale, exchange, or release of State-owned land containing wetlands to an entity other than another State agency, it will require the recipient of the land to grant a conservation easement which must contain provisions to protect the wetlands and any associated buffer areas from adverse impacts. Such easements will be written and recorded pursuant to the Real Property Conservation Rights Act. IDOT will attempt to have a unit of local government be the grantee of the easement. If a unit of local government cannot be obtained, IDOT will attempt to have an acceptable not-for-profit corporation or charitable trust be the grantee. If a unit of local government or not-for-profit entity cannot be obtained, IDOT will reserve conservation rights in its deed or release document and will transfer those rights to IDNR. Prior to the sale, exchange, or release of State-owned lands under IDOT control to an entity other than another State agency, the department will submit a written request to IDNR in accordance with 17 Ill. Adm. Code 1090.90 c 4.

## **XII. Compliance with Other Requirements**

In implementing the provisions of this Action Plan, IDOT will ensure appropriate compliance with laws and regulations applicable to significant historic and archaeological sites and other resources requiring special consideration.

## **XIII. Conflict Resolution Procedures**

Every effort will be made to cooperate with and coordinate wetland matters with IDNR. If circumstances arise in which a disagreement occurs over any substantive matter contained in this Action Plan or its application to IDOT actions or projects, the first attempt at resolution shall occur with technical managers in both Departments. If the matter cannot be resolved at this level within a reasonable period, it may be referred to higher management levels for resolution. The priority of the issues involved and the urgency of the need for resolution shall determine the time frames for referral to higher levels and how high within each organization the matter ultimately will be referred. If a conflict cannot be satisfactorily resolved between administrators in IDOT

## **Wetlands Action Plan**

April 15, 1998

Page 12

and IDNR, up to and including the Secretary of IDOT and Director of IDNR, the matter may be referred to the Governor's office for resolution.

### **XIV. Reports on Action Plan Implementation**

Following approval of this Action Plan, IDOT will submit to IDNR a biennial report summarizing actions taken to implement the provisions of the Action Plan. The report will provide a listing of projects advanced through the wetlands compliance process and a tabulation of the amounts and types of associated mitigation accomplished. The report also will provide a description of other activities that resulted in the establishment of wetlands and a tabulation of the amount and type(s) of wetlands generated by those activities. The first biennial report will be submitted to IDNR on or before June 30 of the second year following initial approval of the Action Plan. Subsequent reports will be submitted on or before June 30 every other year thereafter.

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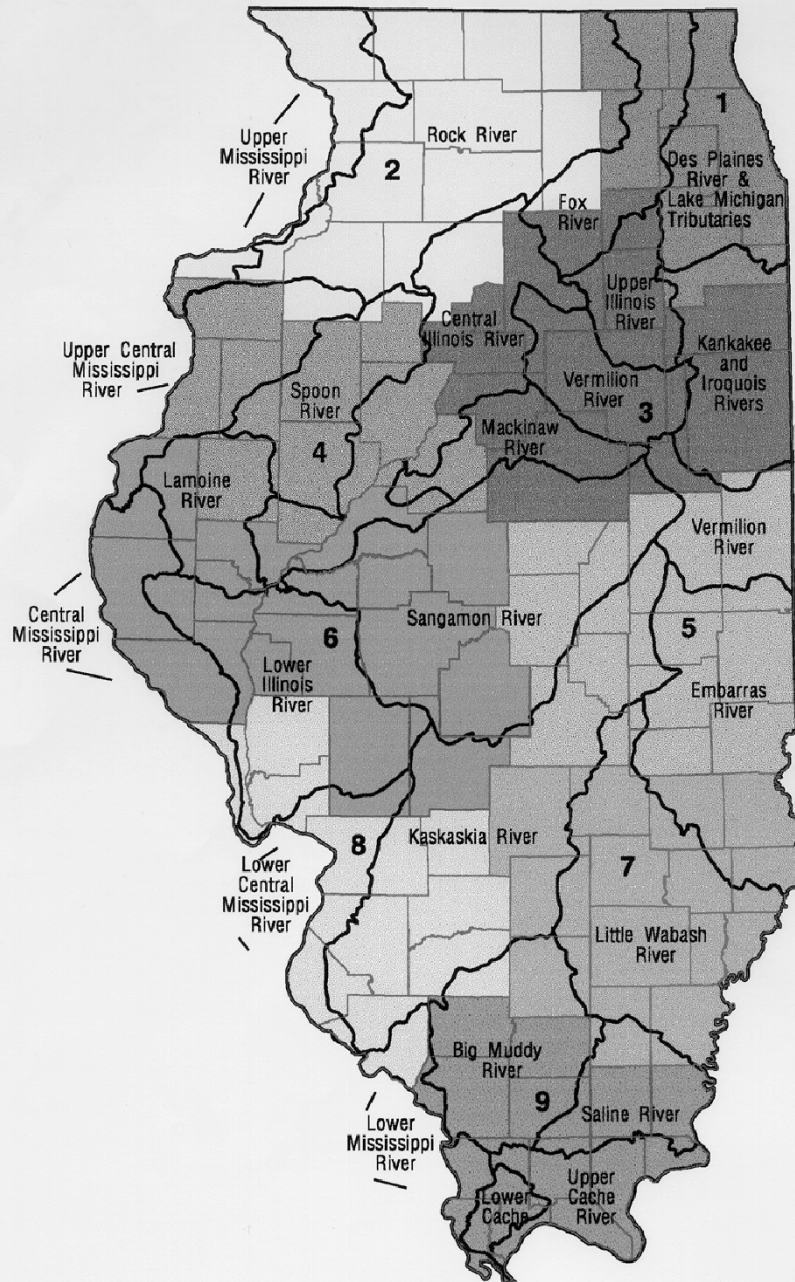
## Wetlands Action Plan

April 15, 1998

Page 13

### Appendix A

#### Drainage Basins for the Evaluation of Wetland Resources Displayed with County Boundaries and IDOT Districts



## **Wetlands Action Plan**

April 15, 1998

Page 14

### **Appendix B**

#### **Wetlands Categories**

Wetlands in Illinois can be classified into 12 categories as indicated below (refer to the accompanying category definitions), all of which are afforded protection under the Interagency Wetland Policy Act of 1989. For purposes of the IDOT wetland action plan, "disturbed" wetlands are treated as a separate category and the remaining categories are placed in three groups indicating their relative quality/complexity/rarity. (The order in which the wetland types are listed within each group does not indicate a relative ranking of the types within the group.) The groups are discussed in the following paragraphs and are intended primarily to guide project decision makers in planning wetlands compensation that will contribute to improving the quality of wetlands in Illinois.

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##### **□ Group 1**

**Bog**  
**Fen**  
**Flatwoods**

Wetland types represented by the Group 1 categories are the rarest types in Illinois. Because of the unique geological and topographic conditions essential to their existence, the potential for creating replacement wetlands of these types is extremely limited (in the case of fens) or nonexistent (in the case of bogs and flatwoods). The utmost effort shall be made to avoid any adverse impacts to wetlands in these categories.

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##### **□ Group 2**

**Sedge Meadow**  
**Prairie, wet**  
**Swamp**

Group 2 wetland types are high quality, relatively complex systems. They are somewhat limited in their occurrence in the State because of the special conditions on which their existence depends. Because of their complexity, they will be somewhat difficult to create or establish and will have to meet demanding site criteria in order to be sustainable. For unavoidable impacts to Group 2 wetlands, compensation shall be of the same type as the wetland affected, to the fullest extent possible.

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##### **□ Group 3**

**Marsh**  
**Wet meadow**  
**Forested**  
**Scrub-shrub**  
**Open water**

Group 3 wetlands are the most prevalent in Illinois. These categories also can be more readily created or established in more areas of the State than can Group 1 or Group 2 wetlands.

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**▣ Disturbed wetlands**

Disturbed wetlands include sites such as farmed wetlands, successional old fields, and urban disturbed areas which, because of their disturbed nature, do not readily fit any other wetlands category. For Disturbed wetlands, compensation for unavoidable adverse impacts will not be in-kind; it shall be either a Group 3 type or a Group 2 type.

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**Definitions of Wetland Categories**

**Bog**

The bog communities of Illinois are found almost exclusively in glaciated depressions of the northeast corner of the state. Drainage is usually restricted, and this, coupled with an abundance of sphagnum moss, results in conditions which are highly acidic. The soils of a bog are saturated throughout the growing season in most years, and small open water areas are common. Vegetation consists of a variety of emergents with shrubs and/or small trees occurring on more consolidated peat. (At the beginning of 1994, there were 10 identified bogs in Illinois which comprised 232.8 acres.)

Definition adapted from A Field Guide to the Wetlands of Illinois, 1988)

**Fen**

A fen is a type of wet meadow fed by an alkaline water source such as a calcareous spring or seep. The deposition of calcium and magnesium in the soil results in an elevated soil pH and gives rise to a variety of unique plants adapted to surviving these conditions. The vegetation is normally comprised of herbaceous emergents although woody shrubs or even trees sometimes occur. (At the beginning of 1994, there were 20 identified fens in Illinois which comprised 153.1 acres.)

Definition adapted from A Field Guide to the Wetlands of Illinois, 1988.

**Flatwoods**

Flatwoods are woodlands growing on level surfaces, usually with widely spaced trees, with slowly permeable and poorly drained soils that contain an argillic horizon or claypan. (At the beginning of 1994, there were 24 identified flatwoods in Illinois which comprised 617.5 acres.)



Definition adapted from White, John, 1978. Illinois Natural Areas Inventory Technical Report, Volume 1 Survey Methods and Results.

**Sedge Meadow**

A sedge meadow is a wetland dominated by sedges (*Carex*) and occurring on peat, muck, or wet sand.

Definition adapted from White, John, 1978. Illinois Natural Areas Inventory Technical Report, Volume 1 Survey Methods and Results.

**Prairie, wet**

A wet prairie is a community dominated by graminoid vegetation on mineral soil which is almost always saturated.

Definition adapted from White, John, 1978. Illinois Natural Areas Inventory Technical Report, Volume 1 Survey Methods and Results.

**Swamp**

A swamp is a wetland characterized by the presence of permanent to semipermanent water and a greater than 30% areal canopy cover of tall (over 20 feet) woody vegetation. In many areas, the canopy cover exceeds 80%.

Definition adapted from A Field Guide to the Wetlands of Illinois, 1988.

**Marsh**

A marsh is a wetland in which tall graminoid plants dominate the plant communities. Marshes have water near or above the surface for most of the year. Soils may be peat, muck, or mineral.

Definition adapted from White, John, 1978. Illinois Natural Areas Inventory Technical Report, Volume 1 Survey Methods and Results.

**Wet meadow**

A wet meadow is a wetland characterized by moist to saturated soils with standing water present for only brief to moderate periods during the growing season. Vegetation includes a wide variety of herbaceous species, from sedges and rushes to forbs and grasses. Woody vegetation, if present, accounts for less than 30% of the total areal cover. Definition adapted from A Field Guide to the Wetlands of Illinois, 1988.

**Forested**

Forested wetlands differ from true swamps in that they lack continuously standing water, although repeated flooding is

common. Differences in the length of inundation give rise to a variety of community types within this classification. Definition adapted from A Field Guide to the Wetlands of Illinois, 1988.

**Scrub-shrub**

A scrub-shrub wetland typifies a community in transition and exemplifies the dynamic nature of wetlands in general. Many emergent wetlands left undisturbed, will gradually be replaced through succession by woody vegetation that will in time develop into a mature forest. The scrub-shrub wetland is often found grading shoreward from an emergent wetland which borders a lake, stream, or pond. The woody vegetation accounts for at least 30% of the vegetation present, and must be less than 20 feet (6 meters) tall. Species composition is dependent on the length of inundation, with willows and dogwood growing in the temporarily to seasonally wet areas and buttonbush in semipermanently flooded areas.

Definition adapted from A Field Guide to the Wetlands of Illinois, 1988.

**Open water wetlands**

Small and shallow [area < 20 acres (8.1 ha) and depth < 6.6 ft. (2 m)] open water areas that lack emergent woody or graminoid vegetation. Natural ponds, farm ponds, borrow pits, and open water areas that occur within a marsh or swamp are included in this category. (Lacustrine and riverine systems are not included in this category.)